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Enquiring into the Justifications for Legitimacy of Political Authority

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Abstract:

Self-preservation is one of the principal aims of human life. Man has an urge for freedom. But when a man becomes subservient to any authority his freedom begins to ebb. Can such authority be entitled as legitimate? If not, then I will be free, at least conceptually. But if my freedom hampers that of others then they can do the same with me. In this scenario, there is no social security of my freedom. On the other hand, if I name political authority as legitimate then I have to put forward justifications for its legitimacy. My paper deals with this by analyzing the path of Jean Jacques Rousseau (1712-1778), an 18th-century philosopher. The first section criticizes natural subordination as the basis of political authority. The second section focuses whether the strongest have the right to rule. The third section discusses whether unperturbed submission can act as a justification for the legitimacy of political authority. The fifth and sixth section recapitulates Rousseau's suggestion regarding the begetting and ground rule of a legitimate civil order. This paper puts an end to the whole discussion by analyzing whether Rousseau is successful in reconciling freedom with authority.

Keywords: Political Authority, Legitimacy, General Will, Freedom, Natural Subordination, Slavery, Social Contract, Body Politic.

Introduction:

'Man is born free, and everywhere he is in chains' (Rousseau 45).

Rousseau's *Social Contract* starts with this line. By nature no man has any right to command others as well as no obligation to obey. This is the reason behind the assertion that man was born free. We have sufficient reason to be the master of ourselves. But now a days we are no more free. We are in chains. Rousseau speaks of two types of chains - 1. chains of law 2. chains of dependence. We are dependent on each other for subsistence. This is called material dependence. We are dependent on each others' opinion for satisfaction of our self-conceit. This is called psychological dependence. Rousseau explicitly enunciates his unawareness of the manner of transition from independence to subjugation. His concern is how this transformation can be made legitimate. In order to trace the justification of political authority Rousseau examines various doctrines -

i) theories of natural sub-ordination

ii) theories regarding the right of the stronger

iii) theories of submission by agreement

By elucidating rifts of these theories Rousseau presents his own sort of justification for legitimacy of social order.

I

Rousseau confers those theories that regards nature as the justification for legitimacy of political authority. Here Rousseau targets mainly two theories - i) political authority is just like paternal authority ii) there is natural difference among men. The first justification is found in Robert Filmer's *Patriarcha* and the later in Aristotle's theory of natural slavery.

Family is the first model of political society. Now, if we consider state as an extended family then the leader corresponds to the father and the people to the children. But there is otherness between the authority of state and that of a father. When a child takes birth he is not capable of taking care of himself. He can't afford to take decisions. So, automatically, he has to depend on his parents. He has to live under their authority. But when a child grows up, attains age of reason then he becomes competent enough to decide what is congruous for his self-preservation. So, the need of being under authority of parents fades away. Such authority is based on need. If the need is no more, the authority ceases to exist. Rousseau admits that sometimes children live under their parents' control even after their childhood. This is a kind of voluntary submission. As this does not take place in the form of agreement it makes us think as if such paternal authority has a natural basis.

Rousseau mentions a distinction between paternal authority and political authority. Authority of a father over his son generates from love and affection. But this is not true in case of a ruler. A ruler gets pleasure imposing commands over others. Rousseau presents a detailed discussion on this in his *Geneva Manuscript* :

....if the voice of nature is the best counsel that a father must listen to if he is to fulfil his duties, it is for the Magistrate nothing but a false guide which works ceaselessly to divert him from his, and which drags him, sooner or later to his downfall or to that of the State, unless he is held back by prudence or virtue.... To do well, the first only has to consult his heart; the other becomes a traitor the moment he listen to his (Rousseau 300).

A ruler does not display natural affection, that a father has for his son, to the people and such an exhibition is unworthy too. It is a sort of vice for him. A ruler must be impartial. His natural affection towards people leads to nepotism.

Aristotle believes in natural differences among men. In *Politics* he mentions :

....there must necessarily be a union of the naturally ruling element with the element which is naturally ruled, for the preservation of both. The element which is able, by virtue of its intelligence, to exercise forethought is naturally a ruling and master element; the element which is able, by virtue of its bodily power, to do what the other

element plans is a ruled element, which is naturally in a state of slavery; and master and slave have accordingly a common interest (Aristotle 1252a.).

Rousseau firmly declares that no one takes birth in this world as a slave. Rather, we make them slave forcefully. They become so habituated with this condition there is no more thirst left in them to get rid of this. This system of slavery has its basis in their cowardice nature. So, it is not possible to justify one's authority over other, namely the authority of a master over his slave, in the name of natural fact. There is no natural basis of legitimate subordination.

II

Rousseau hammers the theory which asserts that power gives us right to command. No stable political order can be generated in this way. 'The stronger party is never strong enough to remain the master forever, unless he transforms his strength into right, and obedience into duty' (Rousseau, *Social Contract*, ch. iii, p. 48). The stronger can dominate the weaker only by force. So, it is not at all logical for him to claim that he has the right to do so. Force is a physical power. It has nothing to do with morality.

Now, to assume force is right is also troublesome. Suppose that, X is more powerful than Y. So, X gets the right to dominate Y. If Y gathers power over time and become more powerful than X, then Y gets the right to dominate X. The aforesaid can't be named as malfeasance if we maintain the phrase 'the right of the strongest'. In addition to that, it validates transformation of right with transformation of power. But a right that glides in this way is far from being admitted as a right.

Now, the fact is, if I have to be under someone's authority just because of his power then I have no moral obligation to do so. Summarily, it is indeed possible for anyone to hold the position of authority on the basis of power, but that power can't serve as the justification for its legitimacy.

III

The drawbacks of theories of submission by agreement has been discussed by Rousseau in two stages -

- i) whether deliberate renunciation of own freedom is possible by agreement
- ii) whether the conqueror has the right to bestow the life of the conquered in exchange for their freedom.

Grotius is of the opinion that as a free individual, I can make myself slave of someone by alienating my freedom. So, the same may be applicable to the whole nation :

By both the Jewish and Roman Law, any man may legitimately submit himself in private slavery to whomever he pleases. Why then may not an independent people submit itself to one or more persons, completely transferring to them its right to govern itself ? (Grotius, *The Law of War and Peace*, Book 1, III. 8)

To establish the inanity of Grotius's argument the word 'alienate' must be understood. It means to give or to sell. But why do I sell myself to others? The reason may be hunger, subsistence. Here Rousseau challenges that rulers are dependent on people to maintain their livelihood and not vice versa.

By nature man has indomitable alacrity for freedom. So, deliberate submission of oneself under the authority of others - this suggestion of Grotius goes against our nature. Still, if someone makes such an agreement he may not be in normalcy. So the agreement can't be considered as valid. Now, if such an agreement is done by our parents then the imperatives will be applicable to their generation only. If any attempt is made to bring next generation under its purview, the contract will be invalid. Because in that case it fails to maintain the fundamental characteristic of legitimacy, namely, arbitrariness. A person who performs such an agreement gives up his freedom entirely. He will no longer be held responsible for his actions. That is to say, the term 'morality' is no more applicable to him. This contract allows right to unlimited authority for some and imposes obligation of boundless adherence to others. Such a contract is nonsensical. There is no room for transfer or exchange. When I sell myself to someone else, the entire 'I' of mine belongs to him. There is nothing left for me, not even the 'I' of mine. In that case, my right, my duty these phrases are pointless.

Grotius argues that the defeated can make themselves slave of the conqueror by an agreement and can save their life in exchange. So, the scenario is, X loses a battle, makes himself a slave of the winner and thus gets back his life. To Grotius, slavery in exchange of life can act as a justification for political authority.

Rousseau declares that right to kill does not follow from winning a battle. Whenever someone gets defeated in a war, gives up his weapons, from that very moment he is no more an warrior of opponent side. He, then, is just an ordinary man. So, the conqueror does not have the right to kill him. Right to kill can't be deduced from gaining victory in war. As a result, 'I abstain from killing you', 'I give your life back to you in exchange for freedom' these assertions do not make any sense. Because if I don't have any right over one's life how do I donate it to him? So, life in exchange of freedom - such an exchange is irrational. Whatever argument we present in favour of it, still no one can have the right to make anyone his slave - '.....because of its absurdity and meaninglessness. The words slavery and right contradict each other' (Rousseau, *Social Contract*, ch. iv, p. 53).

IV

There is difference between aggregation and association. Rousseau points out the difference between keeping a number of people under subjugation and ruling a society. No matter how much people are under my subjugation, the relation between us will remain that of master and slave and will not become a relationship of leader and people. Before looking for justification of political authority the citizens who determine it must be examined, how they transform themselves from mere association to citizen. Because society is based on this genuine association. The people stick to the decision of majority, claim it as the decision of all, these all are based on consensus. It proves that a prior convention is there.

But why they come together and make a contract. In the state of nature men arrive at a situation where it is no longer possible for them to subsist duelling with the opposite force individually. The only option that is left for them is to battle against the opposite force by making an union of forces. It requires collaboration of people for centralization of forces. But on which assurance man will centralize their power and freedom, the fundamental weapons for self-preservation. Why would man submit these to an authority who may limit his power and freedom? It comes as a challenge before Rousseau to make a such a submission compatible with freedom :

Find a form of association which will defend and protect, with the whole of its joint strength, the person and property of each associate, and under which each of them, uniting himself to all, will obey himself alone, and remain as free as before (Rousseau, *Social Contract*, ch. vi, p. 55).

Rousseau claims that solutions for the contract related puzzles are there in the contract itself. The clauses of the contract are made in such a way that slight modification of them will make the contract empty. Then the contracting parties will get back their rights and natural freedom that they submitted. The clauses of the contract can be expressed in one line, 'the complete transfer of each associate, with all his rights, to the whole community' (Rousseau, *Social Contract*, ch. vi, p. 55). But how individual freedom would be secured through inclusion into collective? As we all are now in the same boat. Each of us submits all his rights. Same renunciation has been done by each. So, no one of us loses because :

.....since there are no associates over whom he does not acquire the same rights as he cedes, he gains the equivalent of all that he loses, and greater strength for the conservation of what he possesses.....Each of us puts his person and all his power in common under the supreme direction of the general will; and we as a body receive each member as an indivisible part of the whole (Rousseau, *Social Contract*, ch. vi, p. 55).

As a result of the association a body is formed and it has different names, previously it was called 'city', now it is called 'republic' or 'body politic', when it is passive it is 'the state' to its members, when it is active then 'the sovereign'.

V

While doing the agreement with public an individual does the same with himself too. Thus one engages himself in two responsibilities -

- i) responsibilities to other members as a member of sovereign
- ii) responsibilities to the members of sovereign as a member of state

The sovereign can't have an interest which goes against its members due to whose association it comes into being. So, the sovereign will not do anything contrary to the interest of its members - such a pledge really does not make any sense. On the other hand, there is no assurance from human character that individual will maintain allegiance to the sovereign. We

can view a person from two perspectives - he is an individual being as well as a citizen. As a citizen he creates general will. But as an individual being he can have desires that are different from general will. As an individual being he has some rights too. Without maintaining the duties of a citizen he can enjoy those rights. But the injustice resulting from this leads the body politic towards annihilation. Rousseau restricts this factor by saying that there is an implicit obligation in the social contract - 'if anyone refuses to obey the general will he will be compelled to do so by the whole body...he will be forced to be free' (Rousseau, *Social Contract*, ch. vii, p. 58). As citizens have submitted their entire freedom to the body politic so the sovereign has the right to impose such power on citizens and 'it alone legitimizes civil obligation' (Rousseau, *Social Contract*, ch. vii, p. 58).

Conclusion :

Now the question is, whether Rousseau succeeds to meet the challenge of justifying the sub-ordination of political authority without hampering individual freedom. I must say he has done it, at least conceptually. After calculating the profit and loss it seems that an individual gains some freedom as well as loses some while residing under the sovereign authority in a civil state. What he loses is natural freedom, 'an unlimited right to anything by which he is tempted and can obtain' (Rousseau, *Social Contract*, ch. viii, p. 59), and gets civil freedom 'right of property over anything that he possesses' (Rousseau, *Social Contract*, ch. viii, p. 59), and last but not the least moral freedom 'to obey a law that we have imposed on ourselves' (Rousseau, *Social Contract*, ch. viii, p. 59).

That is to say, in a civil state one is subject to those laws which are made by him. So, one is under one's own subjugation and as free as before. Moreover, one receives social security which was absent in the state of nature. As everybody has formed this body politic by submitting all their rights to it, so no one will think of making a law which will be burdensome for him to obey. Here everyone is under authority, yet free. Because they are not under personal commandment of any particular person, rather subservient to public will, which is uniformly applicable to everyone. Thus the body politic functions as the guarantor of social security. In this way, Rousseau reconciles freedom with submission and lays hands on justification for legitimacy of political authority.

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